

State of Iowa

**EQUAL OPPORTUNITY, AFFIRMATIVE ACTION,  
AND ANTI-DISCRIMINATION POLICY**

For

Executive Branch Employees

**NOTIFICATION AND EFFECTIVE DATE**

All executive branch employees (herein “employees”) are required to read this Equal opportunity, Affirmative Action and Anti-Discrimination Policy, and will be expected to sign an Acknowledgment indicating that the Policy was read and fully understood by the employee. This revised Policy shall become effective on December 13, 1999.

**A. GENERAL STATEMENT OF POLICY**

It is the policy of the executive branch of state government in the State of Iowa to provide equal access to all employees and employee applicants, regardless of individual characteristics. The intent of this policy is to ensure that employment opportunities, within the executive branch of state government in the State of Iowa, are accessible to all persons, and that executive branch agencies do not discriminate against any person because of race, creed, color, religion, gender, gender identity, sexual orientation, marital status, national origin, age, or physical or mental disability.

It is also the policy of state government in the State of Iowa to apply affirmative action measures to correct deficiencies in the state employment system whenever remedial measures are appropriate. This policy shall be construed broadly to effectuate its purpose. However, the remedies employed are only appropriate when consistent with statute.

**B. SEXUAL HARASSMENT**

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e et seq.) as amended, and Iowa Code chapter 216, as amended. “Sexual harassment” shall mean either “unwelcome sexual advances, requests, requests for sexual favors, and other verbal or physical conduct of a sexual nature,” or the failure of an employer to remedy a sexually hostile work environment. Sexual harassment violates state policy “when submission to or rejection of such conduct is made...a term or condition of an individual’s employment,...(is) used as a basis for employment decisions affecting such individual, or such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.”

Examples of sexual harassment include, but are not limited to:

1. Repeated unwanted sexual advances.
2. Requesting or offering sexual favors in return for job benefits.
3. Actions that are sexual in nature such as cornering, patting, pinching, touching or brushing against another person's body.
4. Open speculation or inquiries about another person's sex life.
5. Jokes, remarks, or innuendo that are sexual in nature about another person, or about men or women in general.
6. Displaying sexually explicit material in the work place.
7. Conditioning work benefits on submission to sexual advances or on tolerance of a sexually hostile work environment, or giving preferential treatment because of another person's submission to sexual advances or tolerance of a sexually hostile work environment.

Sexual harassment can take place between any two (2) state employees, regardless of gender.

**C. DISCRIMINATORY HARASSMENT IN VIOLATION OF IOWA CODE  
CHAPTER 216**

Harassment of employees based upon their race, creed, color, religion, sex, national origin, age, or physical or mental disability is a violation of the Iowa Civil Rights Act (Iowa Code chapter 216, as amended); Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1978, as amended; and the Americans with Disabilities Act of 1990.

Examples of discriminatory harassment under this section include, but are not limited to:

1. Abusing the dignity of an employee through insulting or degrading remarks or conduct.
2. Threats, demands, or suggestions that an employee's work status is contingent upon submission to discriminatory harassment.
3. Subjecting an employee to demeaning or degrading activities in order to gain co-worker acceptance, e.g., hazing.
4. Disciplining or terminating an employee because of work incompatibility, which is caused by prohibited discrimination, harassment, or biased behavior.

**D. DISCRIMINATORY PRACTICES IN VIOLATION OF EXECUTIVE ORDER  
NUMBER SEVEN**

Discriminatory practices within the executive branch of state government for the State of Iowa shall constitute a violation of Executive Order Number Seven. It shall be a discriminatory practice to refuse to hire, accept, register, classify, refer for employment, or to discharge or otherwise discriminate against any applicant or employee because of the race, creed, color, religion, gender, gender identity, sexual orientation, marital status, national origin, age, or physical or mental disability of such applicant or employee, unless based upon the nature of the occupation.

“Gender identity” shall mean a person’s individual attributes, actual or perceived, in behavior, practice or appearance, as they are understood to be masculine and/or feminine. “Sexual orientation” shall mean an individual’s actual or imputed heterosexuality, homosexuality, or bisexuality, provided that it is consistent with statute. “Marital Status” shall mean a person’s status in marriage, i.e., single, separated, divorced, or married, as recognized under the Code of Iowa.

If a person with a disability is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not constitute the basis for an exception to the unfair or discriminatory practices prohibited by this policy and state law.

Nothing contained in this policy shall be construed to prevent each individual department or agency of state government from developing individual policies: (1) to establish and maintain decorum within the workplace; and (2) to designate appropriate gender-specific restroom, shower, and like facilities, as long as agency policies are consistent with Executive Order Number Seven, and this policy.

Nothing contained in this policy shall limit the Department of Corrections, the Department of Human Services, the Iowa National Guard, the Iowa Board of Regents, or the Iowa Veteran’s Home from instituting policies or procedures regulating activities at the facilities under their authority, provided that such policies or procedures are necessary to maintain the health, safety, and well-being of inmates, clients, personnel, students, or residents associated with these facilities, and are consistent with statute.

Examples of discriminatory practices under this section include, but are not limited to:

1. Refusing to employ, disciplining, or terminating an individual for discriminatory reasons.
2. Limiting, segregating, or classifying an employee in any way that would unjustly deprive, or tend to deprive that person of employment opportunities, or otherwise affect the status of an employee for any reason that violates this section.

#### **E. GRIEVANCE PROCEDURE FOR STATUTORY VIOLATIONS**

Any person who feels that he or she has been denied an employment opportunity because of race, creed, color, religion, sex, national origin, age, or physical or mental disability has the right, and is encouraged, to file a complaint with the person’s department, pursuant to the department’s grievance procedure. A person may also file a complaint with the Iowa Civil Rights Commission or the appropriate federal enforcement agency.

There shall be no discrimination or retaliation against an individual who files a complaint alleging discriminatory harassment, or who aids another individual in filing a complaint alleging discriminatory harassment. An employee who has reason to believe that he or she has been retaliated against because of participation in an investigation of discriminatory harassment may also file a charge with the Governor’s Office, the Iowa Civil Rights Commission, or with the U.S. Equal Employment Opportunity Commission, whichever is appropriate.

#### **F. GRIEVANCE PROCEDURE FOR NON-STATUTORY VIOLATIONS**

Discrimination against persons within the executive branch of state government for the State of Iowa based on their marital status, gender identity, or sexual orientation constitutes a violation of Executive Order Number Seven.

Any person who believes that he or she has been denied an employment opportunity within the executive branch of state government, because of that individual's marital status, gender identity, or sexual orientation, has the right and is encouraged to file a complaint with that person's department, pursuant to department grievance procedures.

Any person who has been the victim of discrimination under this section, or who has a concern about potential violations of this section, is directed to bring the matter to the attention of his or her immediate supervisor, appointing authority, or their designees, in accordance with the department's established grievance procedure. If the concern or complaint involves the employee's immediate supervisor, the employee is encouraged to file the concern or complaint with the next highest supervisor, or, in the alternative, to the Director of the Iowa Department of Personnel.

Department directors and agency heads are responsible for the enforcement of this section. The Director for the Iowa Department of Personnel shall assist departments and agencies in the enforcement of this section. When applicable, state officials and employees shall cooperate fully with all appropriate individuals in the investigation of violations of this policy, in order to create and maintain a workplace free from discrimination or discriminatory harassment.

All complaints shall be promptly investigated by the appointing authority. Each department or agency shall take final agency action in response to a complaint. The Iowa Department of Personnel shall have the authority to conduct an investigation of practices prohibited under this policy when the Director has determined that the investigation is necessary and consistent with the intent of this policy. If the complaint involves allegations of systematic discrimination, the Iowa Department of Personnel may investigate the complaint, or supervise the investigation conducted by the department or agency implicated. Each department or agency shall take final agency action in response to a complaint.

Corrective action shall be taken to remedy violations of this policy, whenever warranted, up to and including the discharge of parties whose conduct violates this section. A manager or supervisor who fails to properly act upon complaints, or who has personal knowledge of a violation of this policy, and fails to take appropriate action, shall be subject to disciplinary action up to and including discharge.

A copy of any complaint received, and its resolution, shall be forwarded to the Director of the Department of Personnel within ten (10) working days after receipt of the complaint. Interim reports will be provided to the Director of the Iowa Department of Personnel, as requested.

A person, other than a state employee, who is the victim of discrimination prohibited under this policy, shall report the incident immediately to his or her department director, or the Director of the Iowa Department of Personnel.

#### **G. ASSIGNMENT OF RESPONSIBILITIES**

Department directors have the responsibility for the overall administration of this policy. This includes the responsibility for the following:

Equal Opportunity: Integrating equal opportunity into all parts of personnel and program management, reviewing all policies and procedures as they affect equal opportunity and ensuring compliance with relevant statutes.

Affirmative Action: Implementing an internal system for auditing and remedying disparities and under-utilization in the workforce, and reporting the effectiveness of affirmative action efforts to the Director of the Iowa Department of Personnel.

Prevention of Harassment: Making every reasonable effort to prevent all forms of harassment from occurring and taking immediate and appropriate corrective action when harassment is brought to their attention, either directly or indirectly.

Any administrator, supervisor, or employee who engages in any form of discrimination or harassment prohibited by this policy or who retaliates against an individual who has complained of discrimination or harassment will be subject to disciplinary action up to and including discharge. Also, any administrator or supervisor who fails to act upon employee complaints or on personal knowledge of discrimination or harassment will be subject to disciplinary action up to and including discharge.

## **H. TRAINING**

As a preventative measure, department directors and their employees shall attend training offered by the Iowa Department of Personnel intended to sensitize and inform them concerning the elimination of discrimination and harassment in the workplace. This training shall include, but is not limited to, affirmative action, cultural diversity, and discrimination/harassment prevention.

## **I. POSTING**

This policy shall be posted in conspicuous places throughout each of the executive branch departments of Iowa state government, distributed to all department employees, chairpersons of department advisory and policy-making groups, and agency-specific recruiting sources, vendors, and contractors.